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IN THE
SUPREME COURT OF THE UNITED STATES E D
October Term, 1974

Supreme Court, U. S.

MAR 31 1975

No. 67, Original

MICHAEL RUDAK, JR., CLERK

STATE OF IDAHO, ex rel CECIL D. ANDRUS,
Governor; WAYNE L. KIDWELL, Attorney General;
JOSEPH C. GREENLEY, Director, Department of
Fish and Game

Plaintiff,

vs.

STATE OF OREGON, STATE OF WASHINGTON,
Defendants.

MOTION FOR LEAVE TO FILE COMPLAINT
AND COMPLAINT

Counsel for Plaintiff

WAYNE L. KIDWELL

Attorney General

State of Idaho

TERRY E. COFFIN

Deputy Attorney General

Statehouse

Boise, Idaho 83720

of counsel

MATTHEW J. MULLANEY, JR.

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Fish and Game

Plaintiff,

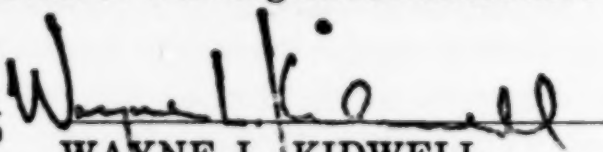
vs.

STATE OF OREGON, STATE OF WASHINGTON,
Defendants.

MOTION FOR LEAVE TO FILE COMPLAINT

The State of Idaho, by its Attorney General, asks leave of the Court to file its complaint against the State of Oregon and the State of Washington submitted herewith.

MAR 28 1975


WAYNE L. KIDWELL
Counsel for Plaintiff

Statement in Support of Motion

Plaintiff, State of Idaho, asks this Honorable Court for leave to file the complaint in this action in order to protect the very existence of an extremely important natural resource and to obtain an equitable apportionment of that resource among the parties. The anadromous fish of the Columbia River Basin are produced in the waters of Washington, Oregon and Idaho both by natural and artificial methods. Anadromous fish

are migratory fish that spend a part of their life at sea, ascending rivers to spawn.

The Columbia River, the Snake River and their tributaries enjoy one of the longest runs of anadromous fish in the world, over 900 miles in length. The resource in Idaho is unique; Idaho does not border a salt-water body, yet the region that is now Idaho has enjoyed anadromous fish runs and spawning grounds throughout recorded history. Now the resource borders on extinction.

The Columbia, the Snake and their tributaries support anadromous species of shad, winter steelhead trout, "group A" and "group B" summer steelhead trout, (hereinafter "summer steelhead") summer chinook salmon, upriver and downriver spring chinook salmon, sockeye salmon, coho salmon, fall chinook salmon and chum salmon. Each type of anadromous fish, after leaving the ocean, will return to its own place of birth if it possibly can.

The State of Idaho at this time is primarily concerned with summer steelhead, summer chinook salmon, and upriver spring chinook salmon runs. These are the main types of anadromous fish which in the recent past have returned in great numbers to their spawning grounds in the State of Idaho to complete their life cycle.

Generally speaking, all anadromous fish have a similar life cycle. An anadromous fish is hatched from an egg and spends a period of time living in fresh water near the spawning grounds. After some growth the fish, referred to at this stage as a "smolt", migrates downstream in the Columbia River system from fresh water tributaries such as the Salmon, Clearwater and Snake Rivers in Idaho eventually to enter the Pacific

Ocean at the mouth of the Columbia River. The starting time and the length of time necessary to complete the run is variable for each species and each spawning area.

Once an anadromous fish reaches the Pacific Ocean it spends from one full year to four years living and maturing in the salt water. At appropriate times anadromous fish form large schools based on race, species and spawning ground destination and then begin the tedious upstream battle to return to the spawning grounds where they were hatched. An anadromous fish has sensitive navigational capabilities that allow it to return to the same spawning stream from which it came.

After a difficult upriver trip of up to 900 miles, during which the fish does not eat, the survivors spawn and in most instances die following the spawning act. The cycle begins again when young anadromous fish hatch from the eggs.

The salmon and steelhead face tremendous obstacles on their upstream run. Immediately upon reentering fresh water at the mouth of the Columbia they can be subjected to intense commercial fishing pressures which are regulated by the Oregon-Washington Columbia River Fish Compact which is controlled exclusively by Washington and Oregon. The fish must pass through five commercial fishing zones where they may be caught in huge numbers by commercial fishermen utilizing gill nets. Some fish are also caught in these zones by sport fishermen. The migrating fish are also required to surmount obstacles presented by hydroelectric dams along the Columbia River and its tributaries. After passing over Bonneville Dam, the first dam in their path, the fish enter Zone 6, an Indian commercial

fishing zone, where they are once again subject to intense fishing pressure. Sport fishing during the proper seasons is allowed on the full length of the Columbia. The fish destined for Idaho that survive all of these dangers finally enter Idaho waters at Lewiston and eventually reach their spawning grounds.

The fish destined to spawn in Idaho can only reproduce their own kind if they reach their spawning grounds. It is not the number of fish that reach the ocean, but the number of healthy fish that are allowed to make the final "escapement" over the last dam in Washington on the Snake River into Idaho that will determine the size of the next "crop" of anadromous fish. Enough steelhead and salmon must be allowed to escape into the State of Idaho to reach their native spawning grounds in sufficient numbers to guarantee not only the continuation of the species but also to provide a large downstream run of "smolts" to the sea. Commercial fishermen do not have an impact on the *downstream* migration.

Anadromous fish are killed in large numbers as a result of dams on the migratory path, slackwater caused by the dams, polluted water and intense commercial fishing pressure. Commercial fishing is not the only problem they face, but it is one factor that man can control *now* before the runs are destroyed or irreparably harmed. Once the continuation of the species is guaranteed by reasonably regulating commercial fishing, the other problems can be alleviated but that will involve a considerable amount of time to complete, at considerable expense.

The complex factual pattern surrounding the anadromous fish problem makes it at once evident that efficient and intelligent management and regu-

lation of commercial fishing is mandatory. It is the contention of the State of Idaho that, in order to properly manage and regulate the resource, all states that have a direct interest in the runs and which have major spawning grounds and hatcheries must be involved in the decision-making process.

Presently anadromous fishing on the Columbia River is controlled through the joint efforts of the State of Washington and the State of Oregon, to the exclusion of the State of Idaho. The Oregon-Washington Columbia River Fish Compact was approved by the legislatures of Washington and Oregon in 1915 and ratified by the Congress of the United States in 1918. The Columbia River Fish Compact regulates the commercial harvest of anadromous fish migrating up the Columbia River. The Columbia River forms a part of the common boundary between Washington and Oregon. Defendants are represented in the Compact by the Fish Commission of Oregon with three members who together have one vote, and the director of the Washington Department of Fisheries who casts one vote. The State of Idaho is not a member of the Compact and has no vote in the policy and rule making which greatly affect the anadromous fish produced in, and destined to return to, Idaho.

The Compact meets to consider the prospective size of any given run of fish based on evidence presented by its staff and other interested parties, including Idaho. The Compact then promulgates regulations mandating the length of the fishing seasons, the types of gear that may be used, the types of fish that may be taken, and the areas open to fishing. The regulations are then implemented by the states and are the "law" of commercial fishing on the portion of the Columbia

River which forms a part of the mutual boundary of Washington and Oregon. Since Idaho has no vote in setting the commercial fishing regulations on the Columbia River, there is no way to insure sufficient escapement to the Idaho spawning grounds. If commercial fishing interests from outside of Idaho continue to set commercial fishing regulations, the inherent greed in man may totally destroy the anadromous fish runs. Not only will the State of Idaho suffer irreparable harm, but if the runs are destroyed, commercial fishing as well as sport fishing will be a thing of the past.

As a result of the inequitable composition of the Compact, the fate of the fish produced in Idaho ultimately resides in the hands of representatives from the States of Oregon and Washington. In order to maximize the short range economic benefits to the citizens of Oregon and Washington, the Compact has extended fishing seasons and authorized the use of fishing techniques and apparatus which have degraded and could eventually destroy the anadromous fish runs for Idaho and everyone.

Plaintiff, State of Idaho, by its complaint, seeks an equitable apportionment of the anadromous fish in the Columbia River Basin drainage commensurate with the production of fish within the State of Idaho boundaries. Not only is the State of Idaho the natural spawning ground for many species of fish but it also produces, in ever increasing numbers, hatchery fish which are allowed to migrate in the normal pattern to the sea. These hatchery fish will eventually return to Idaho waters if allowed. The State of Idaho has maintained a continuing effort to increase the supply of hatchery fish in order to maintain the "escapement" levels into Idaho waters for the benefit of its sport fisheries and

tourists and to preserve the aesthetic and spiritual values inherent in the runs. However, once these fish migrate into the states of Oregon and Washington they come under the control of Washington and Oregon and in particular the Columbia River Fish Compact, commercial fishing agencies.

It is also economically impractical for the State of Idaho and others to continue indefinitely to invest huge sums of money in the production of hatchery fish simply to turn them loose into the drainage and allow them to become money in the pockets of commercial fishermen from Washington and Oregon.

The State of Idaho also seeks an equitable apportionment of the fish runs so that Idaho may be guaranteed a certain "escapement" figure which will insure the continued existence and well being of all of the species spawning within the State of Idaho and which will also insure a reasonable sport fishery for the State of Idaho.

The State of Idaho has been forced in past years to close its sport fisheries before a reasonable sport fishing season had elapsed. This was because of the limited number of fish returning to Idaho due to the effects of dams and overfishing in the Columbia River. Not only does such overfishing diminish the available sport fisheries within the State of Idaho but it, in fact, endangers the perpetuation of the fish populations.

Between the years 1962 and 1974, Idaho produced 56% of all of the upriver spring chinook entering the Columbia River system, but less than 16 of every one hundred spring chinook entering the Columbia on the return migration found their way to Idaho waters. Likewise, for the same period, 55% of the upriver

summer steelhead entering the Columbia River system were produced in Idaho but only 23% of that run were able to return to Idaho's waters. In the last several years the summer chinook salmon runs entering Idaho have declined so drastically in numbers that no fishing has been permitted on that race of fish in Idaho since 1965.

Further, in 1974-75, the summer steelhead sport fishing season in Idaho was severely curtailed because of depleted runs and Idaho faces great danger of severe curtailment again in 1975-76.

Idaho rears anadromous fish at eleven hatcheries within the state and together with cooperating federal agencies and others, Idaho spent \$1,061,083.00 on fish production in 1974. \$105,000.00 were spent on research and \$123,352.00 were spent for operation and maintenance of fish screens and fishways. 9,330,300 spring chinook salmon were "planted" in Idaho in 1974 as were 330,037 summer chinook and nearly 7 million summer steelhead.

As can be seen, Idaho contributes a great deal to the anadromous fish runs of the Columbia River system through natural and hatchery production. If these fish continue to be taken in excess by Oregon and Washington commercial fishermen and are not allowed to return to spawn, their numbers will be reduced in the near future and their extinction is entirely possible. For these reasons it is absolutely mandatory that Idaho be made a member of the Columbia River Fish Compact and be allowed to vote on all issues affecting the number of fish which will escape into Idaho waters for spawning. Idaho is also entitled to a reasonable sport fishery.

Any mandate that Idaho be accorded a vote within

the compact would be of some assistance. The State of Idaho would have a vote but in most cases where the commercial interests of the States of Washington and Oregon were involved, the vote would likely be two to one in favor of the Oregon and Washington commercial interests. For this reason, it is also necessary that this Honorable Court apportion the resource by an equitable formula that will assure Idaho a run of anadromous fish each year to continue the species and to provide Idaho, the state producing these fish, with a reasonable sport fishery.

The State of Idaho can, with reasonable certainty, estimate the number of fish which must reach Idaho in order to assure a reasonable sport fishery season and the continuation and well-being of the species. These "escapement figures" can be presented for each species.

This Honorable Court has accepted jurisdiction in suits dealing with boundary disputes between two or more states. *Louisiana v. Mississippi*, 202 U.S. 1 (1906); *Nebraska v. Iowa*, 406 U.S. 117 (1972); *Ohio v. Kentucky*, 410 U.S. 641 (1973); and *Vermont v. New York*, ____ U.S. ____, 94 S.Ct. 2248, 41 L.Ed. 2d 61 (1974). Cases involving the manner of use of, and rights in, interstate streams have been heard by the Court. *Kansas v. Colorado*, 185 U.S. 175 (1902); *Kansas v. Colorado*, 206 U.S. 46 (1907); *Wyoming v. Colorado*, 259 U.S. 419 (1922); and *Wisconsin v. Illinois*, 281 U.S. 696 (1930), *petition for modification*, 309 U.S. 569 (1940). The Court has also exercised its jurisdiction to enjoin enforcement of a law of one state which would allegedly injure the interstate commerce and welfare of the complaining state. *Pennsylvania v. West Virginia*, 262 U.S. 553 (1923).

None of the cases previously heard by the Court under the jurisdiction of 28 U.S.C. § 1251 (a) (1) are directly in point with Plaintiff's action. It is true, however, that in the water cases, this Court has apportioned a limited and exhaustable natural resource between states claiming a right in the resource. As in the water cases, the anadromous fish of the Pacific northwest are a product of Idaho, Washington and Oregon. Further, the waters in which they live and migrate are interstate waters. Therefore, it is Plaintiff's contention that the issues presented by this case are cognizable by this Court since the action seeks an equitable apportionment of a finite natural resource in which Plaintiff, as well as Defendants, claim a right. Because Idaho lies upstream from defendants, it is being denied its right in the resource and this inequity can only be remedied if this Court accepts jurisdiction in the action and equitably apportions the resource.

There is an anadromous fish cycle like the hydrologic cycle of precipitation, surface and ground waters, evaporation and transpiration, a part of which the Court has considered and apportioned in the cases dealing with interstate streams. Unlike the water cases, however, the State of Idaho provides and maintains the prime spawning grounds for many of these fish and a great number of fish are also produced in Idaho hatcheries at a substantial expense to the state and its citizens. It is submitted that the entitlement to an equitable portion of these fish is stronger than an entitlement to water merely flowing through a state. These fish are created within the boundaries of the State of Idaho and are predestined to return to Idaho if not interfered with by man.

Further, unlike the water cases, the instant matter

is much more urgent. The flow of the water in the stream does not rapidly disappear or die off in an irreversible manner. However, in the case of the anadromous fish, continued abuse of the runs without adequate management may in fact destroy a resource which is valuable not only to the State of Idaho but extremely valuable to the States of Washington and Oregon and to this nation.

In *Pennsylvania v. West Virginia*, 262 U.S. 553 (1923), this Court was asked to enjoin enforcement of a West Virginia law which allegedly interfered with the interstate commerce and the public welfare of Pennsylvania. Plaintiff, State of Idaho, contends in this action that, by refusing to pass corrective legislation and by enforcing existing laws and regulations in such a way as to threaten the continuation of the anadromous runs and to deny an equitable share of the runs to Idaho, Defendants are interfering with the interstate commerce of Idaho and doing irreparable harm to the state and its citizens.

The problem is an intensely complex one that must be solved immediately. The State of Idaho has attempted to become a voting member of the Compact, but has been rejected by the States of Washington and Oregon. The problem is immediate; the damage irreparable, not only to the State of Idaho but to the States of Washington and Oregon and the entire United States. Plaintiff asserts its rights in this original action to preserve a magnificent, irreplaceable natural resource.

Plaintiff's Complaint presents a "justiciable case or controversy" which is cognizable by this Court. The State of Idaho brings this action in its sovereign capacity for the benefit of the State and not on behalf of any private interest. If jurisdiction is not noted and

proper relief granted as requested, the State of Idaho will suffer immediate and irreparable harm, damage and injury of a substantial magnitude.

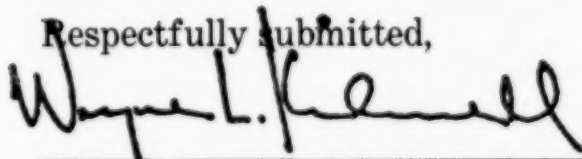
Should jurisdiction not be accepted, the State of Idaho will be left without a remedy since this Court's jurisdiction is "original and *exclusive*" in suits between states. [28 U.S.C. § 1251 (a) (1)]. If jurisdiction is not accepted the resource will be in danger of extinction and the economic, recreational, aesthetic and spiritual values of this irreplaceable resource will be lost to all.

Therefore, the State of Idaho respectfully requests that this Court accept original jurisdiction and order that the State of Idaho be made a voting member of the Compact so that wise regulation of the resource may be instituted, thereby guaranteeing the continuation of the species for the highest benefit of all concerned.

Further, the State of Idaho respectfully requests that the Court determine an equitable apportionment of the anadromous fish runs in the Columbia River and the Snake River and their tributaries based on the number of fish produced and contributed to the total fishery by each state, the present and foreseeable future needs of a viable sport fishery in Idaho, and additional escapement sufficient to assure continuation of the species and restoration of the anadromous fish runs to a size previously enjoyed in the Columbia River Basin.

DATED This 28th day of March, 1975.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wayne L. Kidwell", written over a horizontal line.

WAYNE L. KIDWELL
Attorney General

TERRY E. COFFIN
Deputy Attorney General
State of Idaho

MATTHEW J. MULLANEY, JR.
of counsel

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1974

No. _____, Original

STATE OF IDAHO, ex rel CECIL D. ANDRUS,
Governor; WAYNE L. KIDWELL, Attorney General;
JOSEPH C. GREENLEY, Director, Department of
Fish and Game,

Plaintiff,

vs.

STATE OF OREGON, STATE OF WASHINGTON
Defendants.

COMPLAINT

COMES NOW The Plaintiff, State of Idaho, and
complains and alleges as follows:

I

Plaintiff, State of Idaho, is a sovereign state of the
union of the United States of America, admitted on an
equal footing with the original states in all respects
whatever on July 3, 1890 pursuant to 26 Stat. L. 215
ch. 656, Idaho Admission Bill, § 1.

II

Cecil D. Andrus is the duly elected Governor of the
State of Idaho; Wayne L. Kidwell is the duly elected
Attorney General of the State of Idaho; and Joseph
C. Greenley is the Director of the Idaho Department of
Fish and Game.

III

Defendant State of Washington is a sovereign state of the union of the United States of America.

IV

Defendant State of Oregon is a sovereign state of the union of the United States of America.

V

The jurisdiction of this Honorable Court in this matter lies in § 1251 (a) (1), Title 28, *United States Code*, which provides that the "Supreme Court shall have original and exclusive jurisdiction of: (1) All controversies between two or more states;"

VI

The States of Idaho, Washington and Oregon occupy the major portion of the Columbia River Basin and share a substantial anadromous fishery wherein fish spawn, hatch, and grow to juvenile or "smolt" size in fresh water tributaries of the Columbia and Snake River, migrate downstream to the Pacific Ocean through the Columbia Basin drainage and mature at sea for one, two, three or four years depending on the species, and then reenter fresh water at the mouth of the Columbia River intent upon returning to their own spawning ground, there to spawn and maintain the species.

VII

Anadromous fish destined for waters of the State of Idaho must migrate upstream in the Columbia River where it forms the common boundary between Defendants Washington and Oregon to the intersection of the Columbia River and 46° latitude, thence in the Columbia River as it flows through the State of

Washington to the confluence of the Snake River, thence upstream in the Snake River to a point opposite the mouth of the Clearwater River at Clarkston, Washington—Lewiston, Idaho, thence continuing upstream in the Snake River to its tributaries, including the Clearwater River, to spawn.

VIII

The anadromous fishery in the Columbia River Basin includes winter steelhead trout, downriver spring chinook salmon, upriver spring chinook, summer chinook, group "A" summer steelhead, group "B" summer steelhead, sockeye salmon, shad, coho salmon, fall chinook and chum.

IX

The Idaho anadromous fishery is made up principally of upriver spring chinook salmon, summer chinook salmon and group "A" and "B" summer steelhead trout (hereinafter "summer steelhead"). Fall chinook salmon and sockeye salmon were formerly abundant in Idaho waters, but now are present only in small numbers insufficient to support a fishery.

X

Benefits to Idaho have been substantially below an equitable level in comparison to its production of fish. Between 1962 and 1974, Idaho produced 56% of all of the upriver adult spring chinook run entering the Columbia River Basin, but less than 16% of upriver spring chinook entering the Columbia on the spawning migration escaped into Idaho waters. For the same period, Idaho produced 55% of the upriver adult summer steelhead run entering the Basin but only 23% of that run escaped back into Idaho waters. The reentry of adult summer chinook into Idaho waters has declined

so substantially that no fishing on this race of fish has been permitted in Idaho since 1965.

XI

Because of depletion of the Idaho anadromous fishery, the summer steelhead season in 1974-75 was severely curtailed and curtailment is likely again for the 1975-76 season. A declining juvenile migration to the sea in 1973 makes it probable that the upriver spring chinook season will be curtailed in Idaho this year. Sport fishing on adult summer chinook has been closed in Idaho since 1965 in an attempt to preserve this race of fish.

XII

To regulate the anadromous fishery common to Washington and Oregon, Defendants formed the Oregon-Washington Columbia River Fish Compact in 1915. The Compact was approved by the Congress of the United States on April 8, 1918, 40 Stat. 515, and provides:

All laws and regulations now existing, or which may be necessary for regulating, protecting, or preserving fish in the waters of the Columbia River, over which the States of Oregon and Washington have concurrent jurisdiction, or any other waters within either of said States, which would affect said concurrent jurisdiction, shall be made, changed, altered, and amended in whole or in part, only with the mutual consent and approbation of both States.

XIII

Within the Compact, Washington is represented by its Department of Fisheries. Oregon is represented by its Fish Commission. Defendants' sport fishery agen-

cies, the Oregon Wildlife Commission and the Washington Department of Game, are not a part of the Compact. Regulations are agreed upon by Defendants' commercial fishery agencies at Compact meetings, whereupon each Defendant state independently institutes the agreed to regulations. Defendants regulate their sport fishing independent of the Compact.

XIV

Defendants' management and regulation of the commercial fishery have failed to recognize and make provisions for escapement of an equitable portion of anadromous fish into the State of Idaho, thereby denying Plaintiff its entitlement to an equitable portion of the Columbia River Basin anadromous fishery and endangering the anadromous fishery in Idaho, all to the substantial and irreparable harm of the Plaintiff and all of its citizens.

XV

Because of the depleted runs of anadromous fish within the State of Idaho, Plaintiff has been forced to reduce the length of its anadromous fish seasons and has also been forced to reduce the catch limits during its sport fishery season over the last five years in a drastic manner.

XVI

Plaintiff has on various occasions sought admission to the Oregon-Washington Columbia River Fish Compact in an effort to assert and protect its rights to a sustained anadromous fishery, but admission has been and continues to be denied by the Defendants.

XVII

Anadromous fish are reared at eleven hatcheries

within the State of Idaho. These fish hatcheries are variously supported by the State of Idaho Department of Fish and Game, the National Marine Fisheries Service, the United States Fish and Wildlife Service, the United States Army Corps of Engineers and Idaho Power Company, a public utility operating within the State of Idaho. In fiscal year 1974, \$1,061,083.00 were expended in Idaho on hatchery work per se, i.e., anadromous fish production. Another \$105,000.00 were spent in the State of Idaho to conduct investigations, management studies and experimental hatchery productions within the State of Idaho. \$123,352.00 were spent in the State of Idaho for operation and maintenance of fish screens and fishways. These figures are over and above ordinary management and administrative costs.

XVIII

In 1974 alone, 9,330,300 spring chinook salmon, 330,037 summer chinook and 6,942,023 summer steelhead were stocked in Idaho waters. In 1973, 8,237,396 spring chinook were planted in Idaho, as were 217,100 summer chinook, and 12,986,027 summer steelhead. These plantings consisted of smolts and fingerling fish as well as the planting of fertilized eggs in spawning beds.

XIX

Hatchery production within the State of Idaho is and has been a necessary supplement to the natural spawn of anadromous fish whose numbers have been badly diminished. Despite the natural spawn and hatchery production within the State of Idaho, the return runs of all anadromous fish are steadily declining.

XX

Idaho has no commercial fishing for anadromous

fish within the State of Idaho but does maintain an anadromous sport fishery which Idaho residents and tourists utilize for recreational pleasure and the spiritual and aesthetic values inherent in the runs.

XXI

Defendants have failed and refused to provide effective management and regulation of commercial and sport adult anadromous fishing in Oregon and Washington. Defendants have failed and refused to recognize and protect Idaho's interest in the anadromous fisheries of the Columbia River Basin and have instead adopted and implemented management and regulatory practices concerning commercial fishing which have a substantial and injurious effect upon upstream anadromous sport fishing in Idaho and which deny Plaintiff an equitable share of the resource commensurate with its production of anadromous fish.

XXII

Unless Idaho receives an equitable portion of anadromous fish returning from the sea, Idaho will be forced to shorten further or eliminate entirely its anadromous sport fishing seasons in the future. Unless sufficient numbers of fish in each anadromous fish run are allowed to return to their native spawning grounds, the anadromous fish runs may disappear entirely.

XXIII

Unless the State of Idaho is afforded its equitable share of anadromous fish runs it will suffer irreparable harm in that its anadromous sport fishery will be depleted or eradicated; its tourist industry will be irreparably damaged and harmed; and the spiritual and aesthetic values of the runs themselves will be lost,

all to the irreparable damage and harm of the State of Idaho, its citizens and the citizens of the United States in general.

WHEREFORE, Plaintiff prays as follows:

1. That this Honorable Court accept and assume jurisdiction of this case;

2. That the Court declare and affirm that Plaintiff is entitled to an equitable portion of the upriver anadromous fishery of the Columbia River Basin and that the Court determine Plaintiff's equitable portion based on the evidence;

3. That the Court require and order Defendants and each of them, and their officers, agents and employees, to admit Plaintiff, State of Idaho, as a voting member to the Columbia River Fish Compact;

4. That the Court require and order Defendants and each of them, and their officers, agents and employees, to alter the management techniques and regulation of the commercial and sport anadromous fishery in the States of Oregon and Washington in order to recognize and protect Idaho's interest in the upstream anadromous fishery of the Columbia River Basin;

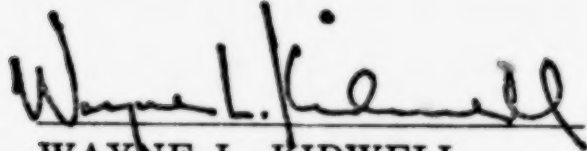
5. That the Court retain jurisdiction of this cause pending administration of the rights of the parties under the Columbia River Fish Compact;

6. That the court award Plaintiff its costs in this action;

7. For such other and further relief as this Court may deem proper and necessary.

DATED This 29th day of March, 1975.

WAYNE L. KIDWELL
Attorney General



WAYNE L. KIDWELL

TERRY E. COFFIN
Deputy Attorney General
State of Idaho
Counsel for Plaintiff

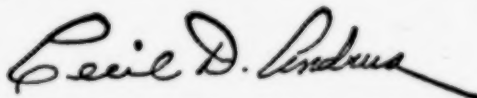
MATTHEW J. MULLANEY, JR.
of counsel

STATE OF IDAHO
County of Ada

} ss.

CECIL D. ANDRUS, Being first duly sworn, deposes and says:

THAT He is the Governor of the State of Idaho, that he has read the above and foregoing Complaint, knows the contents thereof, and believes the same to be true.



CECIL D. ANDRUS, Governor
State of Idaho

SUBSCRIBED AND Sworn to before me this 27th day
of March, 1975.

NOTARY

NOTARY PUBLIC for Idaho
Residing at Boise, Idaho

STATE OF IDAHO
County of Ada

} ss.

JOSEPH C. GREENLEY, Being first duly sworn, deposes and says:

THAT He is the Director of the Idaho Department of Fish and Game, that he has read the above and foregoing Complaint, knows the contents thereof, and believes the same to be true.

COPY

Original Signed
by Joseph C. Greenley
Director

JOSEPH C. GREENLEY, Director
Department of Fish and Game

SUBSCRIBED AND Sworn to before me this 25th day
of March, 1975.

NOTARY

NOTARY PUBLIC for Idaho
Residing at Boise, Idaho

PROOF OF SERVICE

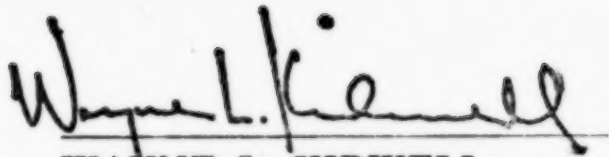
I, WAYNE L. KIDWELL, Attorney General, State of Idaho, attorney for Plaintiff herein, State of Idaho, and a member of the Bar of the Supreme Court of the United States, hereby certify that, on the 28th day of March, 1975, I served three copies of the foregoing Motion For Leave To File Complaint, Statement In Support of Motion For Leave To File Complaint and Complaint in the above entitled matter pursuant to Supreme Court Rule 33, on all parties required to be served by Supreme Court Rule 9 (3), by mailing the same in a duly addressed envelope, with airmail postage prepaid to:

1. Honorable Daniel J. Evans, Governor of the State of Washington, State Capitol, Olympia, Washington, 98104.

2. Honorable Slade Gorton, Attorney General of the State of Washington, Temple of Justice, Olympia, Washington, 98501.

3. Honorable Robert Straub, Governor of the State of Oregon, State Capitol, Salem, Oregon, 97310.

4. Honorable R. Lee Johnson, Attorney General of Oregon, 100 State Office Building, Salem, Oregon, 97310.

Handwritten signature of Wayne L. Kidwell in cursive script, underlined.

WAYNE L. KIDWELL
Attorney for Plaintiff
State of Idaho 83720